

REMARKS

5

The Examiner rejected Claims 3-5 for lack of antecedent basis. Claims 3 and 4 have been cancelled. Claim 5 has been amended to particularly state the structure to which the safety rail is attached.

10

The Examiner rejected Claims 1-4 as being anticipated by Kilgore. Kilgore described a portable scaffold that is attached to a roof 34 (Kilgore, Col. 3, lines 17-19) by a removable anchor 4 system. Kilgore requires that an anchor hole (32?) be permanently drilled into and affixed to a building, particularly the roof. Figures 4 and 5 of Kilgore show the anchor system. It is described at Column 3, lines 43-48. (While Kilgore shows that the anchor system is drilled into the roof, at Figure 1, Numeral 32, he fails to describe or even mention “32” in his Specification.) Kilgore is designed for a building that is already built while the instant invention is designed for buildings under construction (Page 1, line 14 of the instant Specification).

15

20

Due to the fact that Kilgore is for a building with a roof, his anchor system is necessary. The instant device is for attaching a scaffold over a wall under construction or over a perpendicular wall. When Kilgore describes “an opposed bearing...against the vertical portion of the building” (at Page 3, lines 14-21) he is describing a permanent hole in a built roof and a removable anchor 4. The Kilgore system is in stark contrast to the entirely removable system described by the Applicant. Applicant’s clamping system, using the adjustable hanger bracket, adjusts the supporting system to the approximate width of the wall over which it is placed. The instant device is not anchored into the roof of a building as in Kilgore.

25

30

While Kilgore does have vertical risers that adjust the vertical distance of the scaffold floor from the roof, it is limited by the placement of the permanent

holes in the roof. And while Kilgore has a horizontal adjustment system at the top, it does not adjust for the width of the wall, since it utilizes an anchor hole in the roof instead of hanging from a wall still under construction.

5 The Examiner also cited Fruth, which has a support 90 with an essentially square cross-section (Fruth, Figure 3), that is placed on top of vertical riser 36 and is pinned (92) to adjust for width (Fruth, Col. 4, lines 7-13). However, Fruth does not have the versatility to be suspended from a perpendicular wall, as described in the Specification and now claimed in New Claim 7.

10 It would not have been obvious for one to include the vertical adjustments of the Kilgore device with the horizontal adjustment of the “optional and higher cost” (Fruth, Col. 4, line 7) hanger hook of Fruth. In addition, neither Kilgore, nor Kilgore in view of Fruth suggest or teach that a scaffold may be hung from a wall perpendicular to the work wall, as here.

15 Further, Fruth’s support 90 does not have the upper hanger flange now set out as a limitation found in subparagraph (e) of New Claim 7. As described in Applicant’s Original Specification (Page 8, lines 8-14) the upper hanger flange 15 of the present device stabilizes the entire hanger support and counteracts the rotational forces that could be applied to a hanger, such as disclosed in Fruth, that does not have such a wide flange.

20 The Examiner rejected Claim 6 (the perpendicular wall hanger feature of the instant device) based on the swivel adjusting holes 46 of Hutchinson. The Examiner suggested that the swivel adjusting holes of Hutchinson could be transported into the Kilgore and Fruth devices, and that, when all three ideas were combined, the Applicant’s unique device would have been obvious.

25 Hutchinson shows an alternative embodiment of his scaffold that may be hung from an *opening* 74 (Col. 2, lines 69-70). This opening is on the same wall (the parallel wall) as the work wall. See Hutchinson, Figure 7. Hutchinson describes that his “arm members 42 may be rotated 90 degrees” to be “reinserted through the *openings* 44 and within the arms 14” to engage the scaffold support with the “side marginal edge portion of the opening 46” (Col. 30 3, lines 15-23). Hutchinson’s *arm members* are the pieces that rotate; not the

vertical risers as here. Rotating the arm members rather than the entire upper vertical riser as described by the Applicant creates a very unstable hanger bracket subject to rotational forces unless properly secured. Hutchinson is describing a very shaky method of securing a scaffold to the (only) parallel work wall.

Gravity is working for the scaffold hanger in the instant device and there are only minimal or no rotational forces tending to rotate the Applicant's hangers, which are easily and safely overcome by Applicant's upper flanges. When Hutchinson suggests that his scaffold hanger may be used as shown in Figure 7, he is risking an unstable condition since a rotational force may tend to twist the arm 14, and hence the entire hanger itself, unless the pair of hangers is a fixed, permanent and rigid distance apart. The Hutchinson hanger shown in Figure 7 would tend to rotate if it hangs freely, as distinguished from the instant device. This is especially true where, as here, Hutchinson does not disclose or teach that an upper hanger support (15 in the instant invention) should be attached to the outer end of the hanger adjusting piece (in Hutchinson, the outer end of "abutment 48".)

In contrast to Hutchinson, the pair of hanger supports shown and described in the instant device may be hung from opposing perpendicular walls and need not have a means to artificially separate the hangers a fixed and rigid distance apart as would be required by the pair of hangers in Hutchinson. Since the instant device discloses that the pair of hangers may be placed on opposite walls, or one hanger on the work wall and one on the perpendicular wall, the instant device is not rendered obvious or anticipated by Hutchinson, or by Hutchinson, Kilgore and Fruth combined.

The Examiner also rejected Claim 5 (the safety rail claim) as being rendered obvious by Flynn. As Claim 6, now amended, depends from Claim 7, Claim 6, as amended, is new and novel. The limitation in Claim 5 (the safety rail) was not shown in the Drawing Figures. However, it was described in the Specification at Page 3, lines 23-24. It is submitted that the safety rail was adequately disclosed in the Specification and that claim 5 is supported by the

original disclosure, particularly in light of the state of the art as argued by the Examiner with respect to Flynn.

5

CONCLUSION

10 New Claim 7 includes limitations that the height of the vertical riser from the top of the work wall is adjustable in the vertical direction (Subparagraph (a)).

 It also includes the limitation that the width of the horizontal support (hanger bracket) is adjustable to the width of the support wall (Subparagraph
15 (c)).

 Subparagraph (c) also includes the limitation that the hanger bracket may be used on a wall that is perpendicular to the work wall. This unique feature allows a workman to suspend the scaffold hanger from either the parallel (work) wall, a pair of opposed perpendicular walls or one of each.


20 Kilgore has a vertically adjustable riser but does not include or suggest that the scaffold be hung from an unfinished wall. Fruth has “an optional and higher cost” hanger bracket but does not teach or suggest a combination with a vertically adjustable riser. Neither Kilgore or Fruth teach or suggest that the lower, inner vertical riser have holes on a perpendicular surface such that the
25 lower riser may be turned 90 degrees to be hung from a perpendicular wall. None of the references teach or suggest that one or both of the scaffold hangers may be attached to and hung from perpendicular walls.

 New Claim 7 now contains the limitations that allow the structure of the scaffold hanger disclosed by the Applicant to be utilized on either parallel or
30 perpendicular walls. As such, New Claim 7 and Dependent Claim 5 are now in

condition for allowance. Early reconsideration and allowance of Claims 7 and 5 is hereby solicited.

5

Respectfully submitted,


Don W. Weber

#32,321